

The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

Testimony by Andrew Hammond Supporting H.B. 5432: An Act Concerning School-Based Arrests

Joint Committee on Judiciary

March 12, 2012

Senator Coleman, Representative Fox, and Distinguished Members of the Joint Committee on Judiciary:

I am writing on behalf of the Legislative Advocacy Clinic in the Jerome N. Frank Legal Services Organization at Yale Law School.¹

We support H.B. 5432: An Act Concerning School-Based Arrests.

When a police officer arrests a child in school, the arrested child is stigmatized, other children in the classroom are traumatized, and Connecticut reaps the consequences. According to an investigation by the *New Haven Independent*, of the more than 700 school-based arrests made in Connecticut over a three month period last year, the vast majority of them were for minor offenses such as disorderly conduct.ⁱ Schools undoubtedly need to respond to this type of behavior, but resorting to arrest by law enforcement is often disproportionate to the offense and has far-reaching consequences for the child, her fellow students, and the taxpayers of Connecticut.

Like suspensions and expulsions, school-based arrests signal to students that they do not belong in school. Some students subject to disciplinary action have undiagnosed learning disabilities and many attend under-resourced schools.ⁱⁱ Once arrested, students often miss additional school time to face their charges in Juvenile Court, which also saps time and resources from their family.ⁱⁱⁱ These costs are independent of spending any time in custody.

When school-based arrests lead to incarceration, Connecticut incurs even greater costs. In 2008, the American Correctional Association noted that Connecticut spends more to incarcerate a single child than any other state that reported data.^{iv} But that data does not capture the lost opportunities of that student failing to graduate from high school and contribute to the economy and life of our state. What are the lifetime costs of incarcerating a student? As much as \$1.7 million in lost wages and the probability of future incarceration.^v Except in extreme cases of drugs and violence, school-based arrests are a tool of school discipline that Connecticut cannot afford.

H.B. 5432 offers each school in Connecticut the opportunity to craft an appropriate, effective policy for working with law enforcement officers in their halls. However, while this bill offers schools the opportunity to reduce school-based arrests, schools must seize the opportunity, not by passing the

¹ Written under the supervision of Professors Shelley Geballe and J.L. Pottenger Jr. of Yale Law School.

buck and outsourcing school discipline to law enforcement officers, but by adopting policies that limit the role of these officers to handling the rare criminal offense.

In that spirit, we recommend that the policies school adopt as required by this bill echo the model governance document provided by the ACLU in their *Policing in Schools* report.^{vi} This model document seeks to draw a clear distinction between the common disciplinary misconduct to be managed by teachers and administrators and the less common criminal offenses to be handled by law enforcement officers. Connecticut schools should rely on this model document to ensure that school staff and law enforcement officers respect students' rights. Connecticut schools should adopt policies that prohibit strip searches of students or other physically invasive searches and bar the use of physical force or restraints on a child unless there is a real or immediate threat to a student, teacher, or public safety. These policies should also create a straightforward process for any student, parent, teacher, or school administrator to submit a complaint, orally or in writing, concerning misconduct or abuses by law enforcement officers in the school and inform every guardian and staff member of that process.

For the law enforcement officers who are involved in those rare cases of criminal conduct, the policy document drawn up by the school should require minimum school-specific training for those officers. Law enforcement officers are typically "trained to deal with adult perpetrators on the street, not children in schools".^{vii} Interacting with children in school is a unique situation for law enforcement officers. As a result, these officers should receive at least 40 hours of pre-service training and 10 hours of annual in-service training in child and adolescent development and psychology, positive behavioral interventions and supports (PBIS) or other restorative justice techniques, children with disabilities or other special needs, and cultural competency. Furthermore, the school should train all law enforcement officers in all programs that deploy non-punitive approaches to discipline that are available in the school district. At every opportunity, law enforcement officers should be required to participate in any trainings that are designed to improve school climate and respond to student behavior. If Connecticut schools adopt a policy with these specifications, administrators and teachers will minimize their reliance on law enforcement personnel to maintain discipline in their halls.

In requiring schools to report disaggregated data on these arrests, this bill also will help Connecticut residents monitor the incidence of school-based arrests in their communities. While the state judiciary and the Department of Education have both tried to collect as much data as possible, both efforts have led only to incomplete data. Arrests that are diverted from court cannot be counted by the former and the lack of mandatory reporting stymies the latter. Standardized reporting will increase public awareness. All of us have a stake in the educational opportunities given to the children of this state. As a result, we should have access to not only information regarding student needs, resources, and performance, but data on discipline as well.

The likelihood of a child being arrested in the classroom should not be a function of which school that child attends. During the same three month period discussed above, Hartford Public High School saw 15 arrests while Bulkeley High School in Hartford had just 3.^{viii} Inconsistent treatment across and even within school districts offends Connecticut's constitutional commitment to provide "suitable and substantially equal educational opportunities" for all our school children. By requiring schools to adopt a policy standardizing the roles and responsibilities of all law enforcement officers

who have been assigned to a school, this bill would reduce the likelihood of uneven and disparate treatment of students for similar infractions, simply because of which school they attend.

This bill also offers Connecticut schools to eliminate the racial disparities that characterize school-based arrests in our state. Take the following evidence from a study of school-based arrests in the state:

In West Hartford, during the 2005-06 and 2006-07 school years, African American, Hispanic, and white students were arrested in approximately equal numbers – even though white students far outnumbered African American and Hispanic students there. And in East Hartford, African American and Hispanic students were arrested in much greater numbers than were white students, even though white, African American, and Hispanic students comprised roughly equal portions of the student population.^{ix}

To date, the only available studies on school-based arrests in Connecticut focus on urban schools. The reforms proposed by this bill will spur data collection statewide and, in doing so, illuminate the nature and extent of the problem across neighborhoods, municipalities, and regions.

Collaborations between school staff and law enforcement officers should create a safe and stable learning environment for all Connecticut students, not myopically push more and more children into the criminal justice system. H.B. 5432 brings Connecticut one step closer to that goal.

Thank you for the opportunity to submit testimony on this bill.

ⁱ Lisa Chedekel. "School Arrests Bring New Scrutiny, Reforms". *New Haven Independent*. December 13, 2011. Available at

http://www.newhavenindependent.org/index.php/health/entry/school_arrests_bring_new_scrutiny_reforms.

ⁱⁱ Andrea Spencer and Emily Breon, "Truancy: A Closer Look: The Link Between Unmet Educational Needs and Truancy," Center for Children's Advocacy (December 2006). Available at <http://www.kidscounsel.org/final%20truancy%20report%20dec%2020%2006.pdf>.

ⁱⁱⁱ "Dignity Denied: The Effect of 'Zero Tolerance' Policies on Students' Human Rights". A Report of the ACLU, the ACLU of Connecticut, and the Lowenstein Human Rights Clinic of Yale Law School. November 2008. Available at http://www.njjn.org/uploads/digital_library/resource_896.pdf.

^{iv} American Correctional Association, 2008 Directory: Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities (Alexandria, VA: American Correctional Association, 2008).

^v Mark Cohen, "The Monetary Value of Saving a High Risk Youth" *The Journal of Qualitative Criminology* 14(1), 1998.

^{vi} Catherine Y. Kim and I. India Geronimo. "Policing in Schools: Developing a School Governance Document for School Resource Officers in K-12 Schools" ACLU White Paper. August 2009 Available at http://www.aclu.org/files/pdfs/racialjustice/whitepaper_policinginschools.pdf.

^{vii} Ibid.

^{viii} Chedekel. "School Arrests Bring New Scrutiny, Reforms". *New Haven Independent*.

^{ix} "Hard Lessons: School Resource Officer Programs and School-Based Arrests in Three Connecticut Towns". A Report of the ACLU and the ACLU of Connecticut. November 2008. Available at http://www.aclu.org/files/pdfs/racialjustice/hardlessons_november2008.pdf.